

**City of Horseshoe Bay**

**ORDINANCE NO. ORD 07-06-19C**

**TAKEOFF AND LANDING ORDINANCE**

**AN ORDINANCE OF THE CITY OF HORSESHOE BAY, TEXAS, PROVIDING FOR; FINDINGS OF FACT; TAKEOFF AND LANDING REGULATIONS; SCOPE; DEFINITIONS; TAKEOFF AND LANDING RESTRICTIONS; EXEMPTIONS; APPLICABILITY AND EXCEPTION; AUTHORITY; FEES; HELIPORT IDENTIFICATION NUMBER; HELI-FACILITY PRIORITIZATION; HELI-FACILITY PERMIT OR AUTHORIZATION REQUIRED; APPLICATION REQUIREMENTS FOR PERMANENT HELI-FACILITY; APPLICATION REQUIREMENTS FOR A TEMPORARY HELISTOP; DENIAL OF PERMIT; PERMIT OR AUTHORITY TERM AND RENEWAL; REQUIRING INSURANCE; HELI-FACILITY STANDARDS AND MARKING; NOISE ASSESSMENT GUIDELINES; INSPECTION AUTHORIZED; DOCUMENTATION OF STRUCTURAL INTEGRITY; MAINTENANCE; RESTRICTIONS ON ALTERATIONS TO FACILITY OR OPERATIONS; ENFORCEMENT, INCLUDING CIVIL FINES NOT TO EXCEED \$2,000.00 AND CRIMINAL PENALTIES NOT TO EXCEED \$2,000.00; PROVIDING FOR SEVERABILITY; REPEALER; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING**

**WHEREAS**, the unregulated takeoff and landing of all types of aircraft within the city limits of the City of Horseshoe Bay (City) exposes the citizens and their property to a great degree of risk; and

**WHEREAS**, the City Council has the authority to regulate and prohibit takeoff and landing locations within the City; and

**WHEREAS**, the City Council desires to minimize all risks associated with the takeoff and landing of aircraft within the City;

**WHEREAS**, the City Council finds it to be in the best interest of the public to provide for takeoff and landing regulations within the City; and

**WHEREAS**, the City Council is authorized to regulate land use within the City and prohibit nuisances pursuant to the City's general police powers and Texas Local Government Code Chapters 51, 54 and 217;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, TEXAS:**

## **I. FINDINGS OF FACT**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

## **II. GENERAL TAKEOFF AND LANDING REGULATIONS**

### **(a) Scope**

The provisions of this Ordinance shall apply within the City Limits (i.e., incorporated municipal boundary).

### **(b) Definitions**

*Aircraft* means a device that is used or intended to be used for flight in the air. This definition includes, but is not limited to the following: airplanes, experimental flying vehicles, helicopters, para-gliding vehicles and ultra-light vehicles.

*Takeoff* means the initial ascent of an aircraft as it becomes airborne

*Landing* means the last part of a flight, when an aircraft ceases to fly and returns to the ground.

### **(c) Compliance Required**

It shall be unlawful for any person to violate the provisions of this Ordinance.

### **(d) Takeoff and Landing Restrictions**

It shall be unlawful for any person to takeoff or land any aircraft within the City at any location, except at airports or other facilities specifically permitted by the City for such purposes.

### **(e) Exceptions**

An aircraft may takeoff and land within the City limits if:

- (1) the aircraft is a medical or rescue helicopter or other emergency flying vehicle that is being operated for official public business; or
- (2) the operator of an aircraft receives prior written approval from either the Mayor or City Council, who retain the sole authority to mandate specific requirements pertaining to such requested landings or takeoffs prior to the granting of said permission.
- (3) the aircraft is a helicopter acting in compliance with Section III.

**(f) Federal Law**

Nothing in this section shall be construed to grant any authority or impose any City regulation that is in conflict with Federal Aviation Administration regulations pertaining to aircraft operations.

**III. HELIPORT AND HELICOPTER OPERATIONS**

**(a) Definitions**

Terms not otherwise defined in this article have the meaning prescribed by applicable aviation law, including Federal Aviation Administration Advisory Circular 150/5390-2A (*Heliport Design Guide*).

*Helicopter* means a rotocraft that depends principally on its engine-driven rotors for its horizontal motion.

*Heli-Facility* means a heliport or a helistop.

*Heliport* means a building or an area of land or water, including appurtenant facilities, used or intended to be used for helicopter landing and takeoff.

*Helistop* means a minimally developed facility designed to permit boarding and discharge of passengers or cargo, not equipped with a helicopter maintenance, repair, or storage facility.

*Hospital Heliport* means a heliport that only serves helicopters engaged in air ambulance service or other hospital related functions.

*Noise Sensitive Area* means the area within a 4,000 foot radius of a school, church, hospital, nursing home, single-family residential area, or other area identified by the city manager.

*Owner* means a person having a legal or equitable interest in a helicopter, a heli-facility, or a helicopter venture.

*Private Use Heliport* means a heliport that is developed for the exclusive use of its owner and persons authorized by the owner.

*Public Use Heliport* means a heliport available for use by the general public without the prior approval of the owner or operator.

*Temporary Helistop* means a helistop that is approved for helicopter takeoffs and landings on a temporary basis for an advertising, promotional, educational or community service purpose, or a construction project.

**(b) Applicability and Exception**

- (1) This section applies to a heli-facility and helicopter use from a ground or elevated site in the city at a location outside of an airport.
- (2) This section does not apply to the federal or state government or any governmental agency.

**(c) Authority**

The City Council may issue a permit for a heli-facility or authorize a temporary helistop.

**(d) Fees**

Application fees are due and payable by the applicant at the time of submission of application materials as follows:

<u>Type of Application</u>	<u>Fee</u>
Permanent Heli-Facility Initial Application	\$200
Permanent Heli-Facility Renewal Application	\$100
Temporary Helistop Initial Application	\$100
Temporary Helistop Renewal Application	\$50

**(e) Heliport Identification Number**

- (1) The General Manager shall provide a permittee with a City heliport identification number.
- (2) At the request of a governmental agency, the General Manager shall provide a map identifying each heli-facility in the City by type, location, identification number, and name of the owner or operator.
- (3) The owner or operator of a heliport shall display the City heliport identification number as required by subsection III(m)(5).

**(f) Heli-Facility Prioritization**

The City Council shall apply the following priority ranking in approval of a heli-facility site:

- (1) a hospital heliport and other heliport intended for emergency use by a fire department or law enforcement agency;
- (2) a public use heliport; and
- (3) a private use heliport.

**(g) Heli-Facility Permit or Authorization Required**

- (1) To establish or operate a heli-facility in the City, a person must obtain a permit from the City Council.
- (2) A person who wants to operate a temporary helistop must apply to the City Council for written authorization to operate.
- (3) A permit or authorization issued under this article is non-transferable.

**(h) Application Requirements for Permanent Heli-Facility.**

- (1) This section does not apply to an application for a temporary helistop.
- (2) An application for a heli-facility shall include:
  - (A) proof of insurance as required by subsection III(l);
  - (B) a description of the location, type, and intended use of the heli-facility;
  - (C) a description of the size, layout, and topographical features of the location of the heli-facility;
  - (D) the anticipated number of daily operations and hours of operation;
  - (E) the type of helicopters expected to use the facility, including the manufacturer, model number, and maximum gross weight;
  - (F) a site plan, including:
    - (i) the location, type, and height of security fences, berms, and other noise mitigation and security features;
    - (ii) the location and type of firefighting equipment at the site;
    - (iii) the location and type of fuel storage facilities at the site;
    - (iv) the method of surface preparation or stabilization for the touchdown pad, including material;
    - (v) the locations and type of:
      - (A) perimeter lighting, if required;
      - (B) site marking; and

- (C) wind direction indication equipment;
- (vi) each obstruction penetrating the heli-facility's imaginary surfaces as identified in 14 Code of Federal Regulation Part 77 (Objects Affecting Navigable Airspace);
- (G) a Federal Aviation Administration letter of airspace determination;
- (H) a Federal Aviation Administration letter of no objection to the planned approach and departure routes;
- (I) a copy, including attachments, of the following Federal Aviation Administration Forms:
  - (i) 7480-1 (Notice of Landing Area Proposal) as prescribed by Federal Aviation Administration Regulation Part 157 (Notice of Construction, Alteration, Activation, and Deactivation of Airports); and
  - (ii) 7460-1 (Notice of Proposed Construction or Alteration) as prescribed by Federal Aviation Administration Regulation Part 77 (Objects Affecting Navigable Airspace);
- (J) an aerial photograph or current map scaled at least one inch to every 400 feet, marked to indicate:
  - (i) the approach and departure paths; and
  - (ii) the location of all noise sensitive areas within a radius of 4,000 feet from the proposed site;
- (K) a report indicating the anticipated noise level at the proposed site and compliance with Federal Aviation Administration Advisory Circular 150/5020-1 (Noise Control and Compatibility Planning for Airports), except a hospital heliport;
- (L) a certificate of structural compliance, attested to by a registered professional engineer or architect;
- (M) a depiction of the owner's proposed logo, emblem, or identification marking;
- (N) documentation of available motor vehicle parking; and
- (O) additional information required by the City Council.

(3) An applicant for a permanent heli-facility shall provide written notice by First Class United States mail to all neighbors within 1,000 feet of the property on which the permanent heli-facility is proposed that an application for a permanent heli-facility has been submitted. The applicant shall also submit a notice to the President of the Property Owners Association (POA) if the heli-facility is proposed to be located within a POA. The notices shall include the following:

- (A) the name and address of the applicant;
  - (B) the address of the proposed site of the heli-facility;
  - (C) a description of the location, type, and intended use of the heli-facility;
  - (D) a statement that the full application for the permanent heli-facility is on file with the City Secretary and is available for public review;
  - (E) a statement indicating the time and place where the application will be considered by the City Council, and stating that anyone objecting to the proposed heli-facility will have an opportunity to be heard at that meeting.
- (4) An applicant for a Permanent Heli-Facility shall post a sign on the proposed site of the heli-facility within two days of submitting their application for a permanent heli-facility. The sign shall be posted until the application is either granted or denied. The sign shall be of a size sufficient to allow the information contained thereon to be visible, and understandable, from the nearest road. The sign must contain the following information:
- (A) the name and address of the applicant;
  - (B) the address of the proposed site of the heli-facility;
  - (C) a description of the location, type, and intended use of the heli-facility;
  - (D) a statement that the full application for the permanent heli-facility is on file with the City Secretary and is available for public review;
  - (E) a statement indicating the time and place where the application will be considered by the City Council, and stating that anyone objecting to the proposed heli-facility will have an opportunity to be heard at that meeting.

**(i) Application Requirements for a Temporary Helistop**

- (1) An application for a temporary helistop shall include:
- (A) proof of insurance required under subsection III(l);
  - (B) a description of the location and intended use of the helistop;
  - (C) a description of the size, layout, and topographical features of the proposed helistop;
  - (D) the number of anticipated daily operations and hours of operation;

(E) the types of helicopters expected to use the helistop, including manufacturer, model number, and maximum gross weight;

(F) an aerial photograph or current map scaled at least one inch to every 400 feet, marked to indicate:

(i) the location of the temporary helistop; and

(ii) each obstruction penetrating the helistop's imaginary surfaces as identified in 14 Code of Federal Regulation Part 77 (Objects Affecting Navigable Airspace); and

(G) additional information required by the City Council.

(2) An applicant for a temporary helistop shall provide written notice by First Class United States mail to all neighbors within 1,000 feet of the property on which the temporary helistop is proposed that an application for a temporary helistop has been submitted. The applicant shall also submit a notice to the President of the Property Owners Association (POA) if the temporary helistop is proposed to be located within a POA. The notices shall include the following:

(A) the name and address of the applicant;

(B) the address of the proposed site of the temporary helistop;

(C) a description of the location, type, and intended use of the temporary helistop;

(D) a statement that the full application for the temporary helistop is on file with the City Secretary and is available for public review;

(E) a statement indicating the time and place where the application will be considered by the City Council, and stating that anyone objecting to the proposed temporary helistop will have an opportunity to be heard at that meeting.

(3) An applicant for a temporary helistop shall post a sign on the proposed site of the temporary helistop within two days of submitting their application for a temporary helistop. The sign shall be of a size sufficient to allow the information contained thereon to be visible, and understandable from the nearest road. The sign must contain the following information:

(A) the name and address of the applicant;

(B) the address of the proposed site of the temporary helistop;

(C) a description of the location, type, and intended use of the temporary helistop;



(D) a statement that the full application for the temporary helistop is on file with the City Secretary and is available for public review;

(E) a statement indicating the time and place where the application will be considered by the City Council, and stating that anyone objecting to the proposed temporary helistop will have an opportunity to be heard at that meeting.

**(j) Denial of Permit**

(1) The City Council may deny an original or renewal application for a heli-facility if the City Council finds that:

(A) the applicant has:

(i) failed to submit a complete application;

(ii) been denied a site development permit for the proposed heli-facility; or

(iii) been refused a letter of no objection by the Federal Aviation Administration; or

(B) the proposed heli-facility:

(i) presents a material hazard to public health or safety; or

(ii) does not comply with applicable aviation law or this article.

(2) The City Council may deny a renewal application if the City Council determines that adjacent development makes continued operation of a heli-facility creates a threat to public health or safety.

**(k) Permit or Authority Term and Renewal**

(1) A heli-facility permit is valid for three years from the date of issuance.

(2) Authorization to operate a temporary helistop is valid for the earlier of:

(A) the duration of the event or construction project; or

(B) 180 days from the date of issuance.

(3) A permittee may renew a heli-facility permit or authorization before the expiration of the existing permit or authorization.

(4) A permittee must file a renewal application including:

(A) a renewal applicable fee; and

- (B) a certificate that there has been no material change in the information provided in the original permit application; or
  - (C) if a material change has occurred, a description of each change.
- (5) In this section, “material change” includes a change in:
- (A) the number of operations or hours of operation;
  - (B) the type of helicopters using the heli-facility;
  - (C) the approach or departure paths to the heli-facility that may constitute a helicopter operation constraint or safety hazard; or
  - (D) development near the heli-facility that may affect air or ground access or constitute a hazard under 14 Code of Federal Regulation Part 77 (Objects Affecting Navigable Airspace).

**(I) Insurance Required; Termination**

- (1) The owner or operator of a heli-facility must maintain a commercial general liability policy with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for each occurrence.
- (2) A policy under this section shall:
- (A) name the City as an additional insured;
  - (B) indemnify the City from all claims arising out of the operation of the heli-facility, including noise, nuisance, personal injury, death, and property damage;
  - (C) not be cancelable before the 30th day after written notice to the City; and
  - (D) be issued by an insurance company authorized to do business in the State of Texas.
- (3) The owner of a heli-facility shall annually provide the General Manager with a certificate of insurance.
- (4) The General Manager may terminate a heli-facility permit if the owner fails to maintain the required insurance.

**(m) Heli-Facility Standards and Marking**

- (1) The design, construction and operation of a heli-facility must comply with applicable City building and fire codes and aviation law, including Federal Aviation Administration Advisory Circular 150/5390-2A (Heliport Design Guide).
- (2) Except as provided in Subsection III(m)(3), a heli-facility must be marked as prescribed by Federal Aviation Administration Advisory Circular 150/5390-2A (Heliport Design Guide).
- (3) Only a public use heliport or hospital heliport may be marked with the letter “H”.
- (4) A private use heliport shall use an authorized logo, emblem, or other owner identification in the touchdown area that:
  - (A) is know to the pilots authorized to use the facility; and
  - (B) does not detract from other required markings.
- (5) The owner of a heli-facility must mark the lower left corner of the designated final approach and takeoff area as viewed from the primary direction of approach with the City heliport identification number. Each character of the heliport identification number shall be two feet high, composed of a six-inch wide white stripe with a one-inch black border.

**(n) Noise Assessment Guidelines**

- (1) This section does not apply to a hospital heliport.
- (2) A heli-facility shall comply with the noise assessment guidelines prescribed by Federal Aviation Administration Advisory Circular 150/5020-1 (Noise Control and Compatibility Planning for Airports).

**(o) Inspection Authorized; Documentation of Structural Integrity**

- (1) The owner or operator of a heli-facility shall permit access to the facility on demand for periodic inspection by City personnel, including Fire Department personnel.
- (2) If requested by the General Manager or the Fire Department, the owner or operator of a heli-facility shall submit a certificate of structural compliance attested to by a registered professional engineer documenting the structural integrity of the facility.
- (3) The chief of the Fire Department shall conduct a periodic inspection of each heli-facility and submit a copy of an inspection report to the General Manager for review and, if necessary, appropriate action.

**(p) Maintenance Required; Termination**

- (1) The owner or operator of a heli-facility shall maintain the buildings, structures, and ground areas used to store helicopters or related to helicopter use in a safe and sanitary condition.
- (2) The owner or operator of a heli-facility shall maintain required equipment and security devices in good working order.
- (3) The General Manager or City Council may terminate a heli-facility permit or revoke approval of a heli-facility site if the owner or operator fails to properly maintain the facility.

**(q) Restriction on Alterations to Facility or Operations**

The owner or operator of a heli-facility may not enlarge or modify the design or layout of a heli-facility or make any material change to the operations of a heli-facility without the prior written consent of the City Council.

## **IV. ENFORCEMENT**

**(a) Enforcement**

The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

**(b) Criminal Prosecution**

Any person violating any provision of this Ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00), except as may be otherwise expressly provided by state law. Each day that a provision of this Ordinance is violated shall constitute a separate offense. An offense under this Ordinance is a misdemeanor.

**(c) Civil Remedies**

Nothing in this Ordinance shall be construed as preempting or waiving the rights of third parties from instituting any action for remedies against anyone who violates this Ordinance. Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:

- (1) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance;
- (2) a civil penalty up to two thousand dollars (\$2,000.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice

